

Finance Unit,
Clare St.

Re: Payment of Settlement in respect of Court case (Cork Co Co -v-Minister)

Please arrange for payment of the attached Settlement of Costs for €167,500 in favour of Messr O'Connor, Murphy, Clune Solicitors **within two weeks**. Payment should be forwarded with the attached covering letter, to the Accounts Section of Chief State Solicitors Officer.

The settlement arises from one of many court cases as a result of the Castletownbere Ferry disaster. This disaster occurred on 24th February 1994 when a small, unlicensed ferry boat capsized in Castletownbere Harbour resulting in the loss of four lives. The events that followed the ferry disaster are complex and have spanned a considerable number of years.

As outlined in attached information note the High Court proceedings lodged by Cork Co Co's solicitors (O'Connor, Murphy, Clune) in April 2008 stem from their claim that there had been an agreement to pay both their Circuit and High Court costs in relation to their role as co-defendant in the original case taken by [REDACTED] for the loss of [REDACTED]. Previous offers to settle this issue, on the basis of available records and the recollections of officers involved at the time, were rejected by the solicitors and they initiated these new High Court proceedings for recovery of their costs.

There were ongoing attempts during 2009 to reach settlement and in January 2010 we instructed the CSSO to formally seek negotiations to settle, on the basis that disputes between public bodies involving legal proceedings, should be mediated or arbitrated before expensive legal costs are incurred. [REDACTED]
[REDACTED]

A negotiation meeting initially scheduled for 26th February was rearranged for Friday 12th March 2010 at the Four Courts, Dublin. As per the April 2008 Statement of Claim the solicitors initially sought payment of €143,078.50 - calculated based on both Circuit and High Court costs, plus interest to April 2008. Their opening request at the negotiation on Friday 12/3/2010 was for: -

(1) Original Circuit Court costs	€53,970.44	
(2) Original High court costs	€27,835.92	€81,806.36
(3) Interest on Circuit costs to April 2008 (+ todate tbc)	€39,897.67 + ?	
(4) Interest on High court to April 2008 (+ todate tbc)	€18,089.28 + ?	
(5) Costs incurred on present proceedings	tbc	

Given that the Dept had previously offered to pay both the Circuit and High Court costs, which had been rejected and following some calculation on the interest costs, the Dept's Counsel offered the original Circuit and High court costs plus the interest solely on the Circuit court costs todate. A figure of €4,819.54 was calculated for the outstanding interest bringing the total for this offer to €126,523.57.

For their part they agreed to ignore the High court interest costs (€18,089.28) and sought €66,750 to cover their costs on the present proceedings¹. Following further calculation and advice on how much we might have had to pay for a full hearing on the proceedings we counter offered "in full and final settlement" for an all-in amount. We finally agreed an amount of €167,500, which reflects a saving of €25,777.57 on their bid for €66,750 when added to amounts (1) – (3) above.

[REDACTED]

If you require any further information I can be contacted on ext. 3414

Mary Kinsella
Maritime Safety Policy Division
15 March 2010

[REDACTED]